

By: Lozano

H.B. No. 2606

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prosecution and punishment for possession of a
3 controlled substance listed in Penalty Group 2-A; increasing a
4 criminal penalty for possession of certain substances.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 481.1161, Health and Safety Code, is
7 amended by amending Subsection (b) and adding Subsection (c) to
8 read as follows:

9 (b) Except as provided by Subsection (c), an [Aa] offense
10 under this section is:

11 (1) a Class B misdemeanor if the amount of the
12 controlled substance possessed is, by aggregate weight, including
13 adulterants or dilutants, two ounces or less;

14 (2) a Class A misdemeanor if the amount of the
15 controlled substance possessed is, by aggregate weight, including
16 adulterants or dilutants, four ounces or less but more than two
17 ounces;

18 (3) a state jail felony if the amount of the controlled
19 substance possessed is, by aggregate weight, including adulterants
20 or dilutants, five pounds or less but more than four ounces;

21 (4) a felony of the third degree if the amount of the
22 controlled substance possessed is, by aggregate weight, including
23 adulterants or dilutants, 50 pounds or less but more than 5 pounds;

24 (5) a felony of the second degree if the amount of the

1 controlled substance possessed is, by aggregate weight, including
2 adulterants or dilutants, 2,000 pounds or less but more than 50
3 pounds; and

4 (6) punishable by imprisonment in the Texas Department
5 of Criminal Justice for life or for a term of not more than 99 years
6 or less than 5 years, and a fine not to exceed \$50,000, if the amount
7 of the controlled substance possessed is, by aggregate weight,
8 including adulterants or dilutants, more than 2,000 pounds.

9 (c) If the controlled substance is in a powdered form, an
10 offense under this section is:

11 (1) a Class A misdemeanor if the amount of the
12 controlled substance possessed is, excluding any adulterants or
13 dilutants, two ounces or less;

14 (2) a state jail felony if the amount of the controlled
15 substance possessed is, excluding any adulterants or dilutants,
16 four ounces or less but more than two ounces;

17 (3) a felony of the third degree if the amount of the
18 controlled substance possessed is, excluding any adulterants or
19 dilutants, five pounds or less but more than four ounces;

20 (4) a felony of the second degree if the amount of the
21 controlled substance possessed is, excluding any adulterants or
22 dilutants, 50 pounds or less but more than 5 pounds; and

23 (5) punishable by imprisonment in the Texas Department
24 of Criminal Justice for life or for a term of not more than 99 years
25 or less than 5 years, and a fine not to exceed \$50,000, if the amount
26 of the controlled substance possessed is, excluding any adulterants
27 or dilutants, more than 50 pounds.

1 SECTION 2. Article 14.06(d), Code of Criminal Procedure, is
2 amended to read as follows:

3 (d) Subsection (c) applies only to a person charged with
4 committing an offense under:

5 (1) Section 481.121, Health and Safety Code, if the
6 offense is punishable under Subsection (b)(1) or (2) of that
7 section;

8 (1-a) Section 481.1161, Health and Safety Code, if the
9 offense is punishable under Subsection (b)(1), (b)(2), or (c)(1)
10 [~~or (2)~~] of that section;

11 (2) Section 28.03, Penal Code, if the offense is
12 punishable under Subsection (b)(2) of that section;

13 (3) Section 28.08, Penal Code, if the offense is
14 punishable under Subsection (b)(2) or (3) of that section;

15 (4) Section 31.03, Penal Code, if the offense is
16 punishable under Subsection (e)(2)(A) of that section;

17 (5) Section 31.04, Penal Code, if the offense is
18 punishable under Subsection (e)(2) of that section;

19 (6) Section 38.114, Penal Code, if the offense is
20 punishable as a Class B misdemeanor; or

21 (7) Section 521.457, Transportation Code.

22 SECTION 3. Article 42A.551(a), Code of Criminal Procedure,
23 is amended to read as follows:

24 (a) Except as otherwise provided by Subsection (b) or (c),
25 on conviction of a state jail felony under Section 481.115(b),
26 481.1151(b)(1), 481.116(b), 481.1161(b)(3) or (c)(2),
27 481.121(b)(3), or 481.129(g)(1), Health and Safety Code, that is

1 punished under Section 12.35(a), Penal Code, the judge shall
2 suspend the imposition of the sentence and place the defendant on
3 community supervision.

4 SECTION 4. Sections 481.134(c), (d), and (e), Health and
5 Safety Code, are amended to read as follows:

6 (c) The minimum term of confinement or imprisonment for an
7 offense otherwise punishable under Section 481.112(c), (d), (e), or
8 (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e),
9 481.114(c), (d), or (e), 481.115(c)-(f), 481.1151(b)(2), (3), (4),
10 or (5), 481.116(c), (d), or (e), 481.1161(b)(4), (b)(5), (b)(6),
11 (c)(3), (c)(4), or (c)(5) [~~(5), or (6)~~], 481.117(c), (d), or (e),
12 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or
13 481.121(b)(4), (5), or (6) is increased by five years and the
14 maximum fine for the offense is doubled if it is shown on the trial
15 of the offense that the offense was committed:

16 (1) in, on, or within 1,000 feet of the premises of a
17 school, the premises of a public or private youth center, or a
18 playground; or

19 (2) on a school bus.

20 (d) An offense otherwise punishable under Section
21 481.112(b), 481.1121(b)(1), 481.113(b), 481.114(b), 481.115(b),
22 481.1151(b)(1), 481.116(b), 481.1161(b)(3) or (c)(2),
23 481.120(b)(3), or 481.121(b)(3) is a felony of the third degree if
24 it is shown on the trial of the offense that the offense was
25 committed:

26 (1) in, on, or within 1,000 feet of any real property
27 that is owned, rented, or leased to a school or school board, the

1 premises of a public or private youth center, or a playground; or

2 (2) on a school bus.

3 (e) An offense otherwise punishable under Section
4 481.1161(b)(2) or (c)(1), 481.117(b), 481.119(a), 481.120(b)(2),
5 or 481.121(b)(2) is a state jail felony if it is shown on the trial
6 of the offense that the offense was committed:

7 (1) in, on, or within 1,000 feet of any real property
8 that is owned, rented, or leased to a school or school board, the
9 premises of a public or private youth center, or a playground; or

10 (2) on a school bus.

11 SECTION 5. The change in law made by this Act applies only
12 to an offense committed on or after the effective date of this Act.
13 An offense committed before the effective date of this Act is
14 governed by the law in effect on the date the offense was committed,
15 and the former law is continued in effect for that purpose. For
16 purposes of this section, an offense was committed before the
17 effective date of this Act if any element of the offense occurred
18 before that date.

19 SECTION 6. This Act takes effect September 1, 2017.